

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

AUG 13 2020

U.S. DISTRICT COURT
ELKINS WV 26241

Francisco Masias

Your full name

FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)

v.

Civil Action No.: 5:20cv171
(To be assigned by the Clerk of Court)

Warden: Hodges / Captain: Riddle

SIS: Aldrige / Dr: Wilson

AUSA: Flowers / AUSA: Bauer

sued in official capacity

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: Francisco Masias Inmate No.: 42558-424
Address: F.C.I. Gilmer P.O. Box 6000
Glennville WV 26351

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

Attachment A

B. Name of Defendant: Hodges
 Position: Warden
 Place of Employment: F.C.I. Gilmer
 Address: P.O. Box 6000
Glenville WV 26351

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: He is warden
and he signs off on who is kept in
SHU. He has told me for over 1 year
He would let me out of SHU. He also
Does not answer Administrative Remedys.

B.1 Name of Defendant: Dr. Wilson
 Position: Doctor - Head of medical
 Place of Employment: F.C.I. Gilmer
 Address: P.O. Box 6000
Glenville WV
26351

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: She is Head
of Medical while I've been in
SHU And my medical needs have gone
untreated. She has repeatedly ignored my
medical needs

B.2 Name of Defendant: Aldridge
 Position: S.I.S
 Place of Employment: F.C.I. Gilmer
 Address: P.O. Box 6000
Glenville WV
26351

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

Attachment A

If your answer is "YES," briefly explain: He is in charge
of SIS and has kept me in
SHU since April 6, 2019. He
has repeatedly told me only way out, SHU
is to waive my Due Process rights And B.O.P
Policies

B.3 Name of Defendant: Bauer
 Position: A.U.S.A.
 Place of Employment: United States District Court
 Address: United States District Court, Northern
District of West Virginia, P.O. Box 227, Elkins WV
26241-1518

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: He is the one
who Refuses to let me out of SHU
and is violating my Due Process

B.4 Name of Defendant: Flowers
 Position: A.U.S.A.
 Place of Employment: Northern District of West Virginia
 Address: United States District Court, P.O. Box
227, Elkins WV 26241-1518

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: He also Refuses
to let me out of SHU and
is violating my Due process

Attachment A

B.5 Name of Defendant: R. Ffale
 Position: Captain
 Place of Employment: F.C.I. Gilmer
 Address: P.O. Box 6000 Glenville WV
26351

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: He is in charge
of security in Gilmer F.C.I. and
refuses to abide by B.O.P. policies.

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: F.C.I. Gilmer

A. Is this where the events concerning your complaint took place?
☒ Yes ☐ No

If you answered "NO," where did the events occur?

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
☒ Yes ☐ No

D. If your answer is "NO," explain why not: _____

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

Attachment A

and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 ^{Case #} 1013773-R1 / ^{Warden never answered so I went forward} One Process / ^{BOP Policies} B.O.P. Policies / ^{cruel and unusual Punishment} (Cruel and unusual Punishment)

LEVEL 2 ^{Case #} 1013773-R1 (One Process) (Cruel & unusual Punishment)

LEVEL 3 ^{Case #} 1013990-A1 (One Process) (Cruel and unusual Punishment)

IV. PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No

B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "IV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

Attachment A

8. Approximate date of disposition. Attach Copies: _____
- C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?
☐ Yes ☐ No
- D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

- E. Did you exhaust available administrative remedies?
☒ Yes ☐ No
- F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.
 I filed 5 BP-9's to warden and never got a
 answer. I filed BP-10. copy Attached / I filed
 BP-11 copy Attached.

- G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"
1. Parties to previous lawsuit:

Attachment A

Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number:

_____3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: Hodges: He is warden and ultimately
its his call weather B.O.P Policy is
followed.

Rifle: He is in charge of security at F.C.I
Gilmer and signs off on who stays in SHU

Supporting Facts: I have been in SHU

Attachment A

Since April 6 2019, He has told me
he was going to get me out for over 1 year.
I have documents to prove this

CLAIM 2: Aldridge: He is SIS and has tried
to circumvent my Due process and has kept
in in SHU. ALSO my name was forward on a
CJ-23 return! ALSO my account was Froze for
first 10 months April 6 2019 - Dec 2020/50 I couldn't call
or buy stamp to write home.

Supporting Facts: He is SIS, and in charge of
all SIS investigations. I have documen
tation to prove those facts.

CLAIM 3: Bauer: He is AUSA and has told
warden and SIS not to let me
out of SHU.

Supporting Facts: I was told by aldridge that
only way out of SHU is to plead
guilty. And that Bauer was AUSA
in charge of investigation. I also have
mail to prove these claims

CLAIM 4: Flowers: He was first AUSA that
was in charge for keeping me in SHU for
first 10 months

Supporting Facts: I was told by warden and
Aldridge that he was Responsible for me

Attachment A

being in SHU for first 8 months.
 And he didn't want me out of SHU
 while violating my Due Process Rights

CLAIM 5: Dr. Wilson: She is the one who
 sees me and denies my medical needs
 while I've been in SHU

Supporting Facts: My medical Records / sic call
 slips.

VI. INJURY

Describe **BRIEFLY** and **SPECIFICALLY** how you have been injured and the exact nature of your damages.

While in SHU. I have developed a really bad nasal infection
 which they have miss diagnosed until finally putting me for special-
 ist that I have been waiting for over 6 months. Also a Hernia.
 A severe ingrown toe nail, to a nail fungus. And my Ankle
 has gone untreated for over 2 years.

VII. RELIEF

State **BRIEFLY** and **EXACTLY** what you want the Court to do for you. *Make no legal arguments. Cite no cases or statutes.*


I Only want my Due Process Rights to be enforced. I want
 my medical needs met. I want my court fees and
 nominal Damages Paid. I want to be released from
 SHU and all Sanctions Deemed Paid since I Done so much
 time in SHU already.

Attachment A

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at F.C.I. Gilmer on 8/5/20.
(Location) (Date)


Your Signature